

UPPER CLARK FORK RIVER BASIN RESTORATION FUND FISCAL YEAR END 2007 STATUS REPORT

Prepared by Kathy Coleman, NRDP
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Background

On April 19, 1999, the U.S. District Court for the District of Montana approved a consent decree between the Atlantic Richfield Company (ARCO) and the State of Montana. This decree partially settled the State's natural resource damage lawsuit against ARCO to recover damages for injuries to the public's natural resources in the Upper Clark Fork River Basin (UCFRB). In addition to the payment of \$15 million for assessment and litigation costs, \$80 million for Silver Bow Creek remediation costs, and a land transfer to the State worth \$2 million, ARCO agreed to pay the State \$118 million on or before July 18, 1999, plus interest from April 6, 1998. With interest, ARCO's payment to the State totaled approximately \$129.3 million. Under the terms of the Consent Decree, \$10 million of that was set aside in the Silver Bow Creek Reserve Fund to be used, if necessary, for certain types of cost overruns incurred in the remediation of Silver Bow Creek. The remaining \$119.3 million, plus \$460,000 in leftover assessment cost settlement funds, were deposited in the UCFRB Restoration Fund to restore or replace the natural resources injured and/or the services lost as a result of hazardous substance releases that were the subject of the Montana v. ARCO lawsuit.

The Montana Board of Investments (BOI) manages both funds, which are split among a variety of investment vehicles:

- Liquidity is provided by the Short Term Investment Pool (STIP).
- Securities with maturities out to 10 years are used for short-to-intermediate term investments.
- Long-term investments are made in the Trust Funds Bond Pool (TFBP). The majority of the settlement funds are invested in the TFBP.

UCFRB Restoration Fund Status

Attachment 1 provides a financial revenue summary for the Restoration Fund investments. Investments are divided between the TFBP – 87%, the STIP – 5%, and government or corporate securities – 8%. The book value as of June 30, 2007 was approximately \$161.5 million; the market value was approximately \$160.8 million.¹ The book value represents securities' cost values, plus or minus amortized premiums or discounts. The market value represents the estimated value of securities or units in the STIP or TFBP on June 30, 2007.

Between January 1998 and July 2007, interest revenues of the Restoration Fund have totaled \$74,609,989.² The Trustee's current policy regarding available grant funds is that only interest

¹ These fund balances from SABHRS trial balance reports include fiscal year end adjustments that are not included in the attached detailed table of investments from BOI.

² With the market adjustment, interest revenues between January 1998 and July 2007 totaled \$73,926,507.

earned on the principle in the coming years will be expended, unless the Trustee finds that it is appropriate to invade the principle to fund significant or time-critical projects.

Attachment 1 summarizes Restoration Fund expenses to date by fiscal year. Expenses total \$32,795,549³ from January 1998 through June 2007. The majority of Restoration funds, \$27,124,010 or 82%, have been spent on grant projects approved by the Governor. An additional \$14,586,142 has been approved for grant projects but not yet expended. The Montana Department of Fish, Wildlife and Parks (MFWP) has expended \$553,311 of the \$3.2 million allocated by the 1999 Consent Decree for wetland/riparian enhancement in the UCRFB and \$199,138 of the \$500,000 allocated for bull trout restoration. Advisory Council expenses total \$133,199. Natural Resource Damage Program (NRDP) administrative expenses total \$2,843,542. NRDP site-specific expenses total \$1,926,450 for restoration planning, assessment and consent decree implementation activities.⁴

Silver Bow Creek Reserve Fund Status

Between January 1998 and July 2007, interest revenues from the \$10 million set aside in the Silver Bow Creek Reserve Account totaled \$7,159,326. The book value as of June 30, 2007 was \$17.1 million; the market value was \$16.9 million. Approximately 99% of these funds are invested in the TFBP, with the remaining balance in STIP. When it is determined that this money is not needed for Silver Bow Creek remediation activities, it may be used for restoration funding.

Milltown Restoration Fund Status

In 2005, the State settled its natural resource damage claim against NorthWestern Corporation for injuries specific to the Milltown Dam site. NorthWestern agreed to pay the State \$3.9 million of those claims and to transfer certain property rights at the Milltown site, subject to certain conditions. NorthWestern has already paid \$2.5 million to the State and is obligated to pay an additional \$1.4 million by August 2008. This settlement money, combined with any interest earned on the \$3.9 million and an allocation of \$7.6 million from the UCFRB Restoration Fund, will be used to conduct restoration at the confluence of the Clark Fork and Blackfoot Rivers in coordination with the remedial actions conducted at the Milltown Dam site. In total, \$11.5 million has been approved for restoration at the Milltown site.

In April 2006, the State received the initial deposit of \$2,500,000 from NorthWestern and deposited it in the Milltown Restoration Fund. Through Fiscal Year 2007, interest revenue of \$164,516 was earned resulting in a fund balance of \$2,664,516. This money is invested in STIP. As of July 2007, \$830,234 of the approved \$11.5 million approved for restoration at Milltown has been expended for restoration design work at the site.

A summary flow chart indicating the revenues and expenditures, the Restoration Fund, the Silver Bow Creek Reserve Fund, and the Milltown Restoration Fund is provided in Attachment 2.

³ This amount includes \$32,779,655 from SABHRS report plus \$418.90 prior year adjustment from FY03 and \$154,786 prior year adjustment FY07.

⁴ The NRDP site-specific expenses are the total of the costs shown in the table for the Silver Bow Creek Land Transfer, Silver Bow Creek Planning, Milltown Administration, Milltown Restoration, Restoration Planning and Assessment (for the three remaining litigation claims), and Restoration Grant Supplemental categories.

COMPARISON OF REVENUES AND EXPENSES										
	FY99	FY00	FY01	FY02	FY03	FY04	FY 05	FY 06	FY 07	TOTAL
Interest Revenues	\$3,070.63	\$8,107,715.13	9,299,113.11	\$9,514,244.11	\$9,510,511.94	\$10,042,592.11	\$9,964,445.98	\$8,763,186.22	\$9,405,110.48	\$74,609,989.71
Expenses:	\$0.00									
Program (NRD, FWP, Advisory)	\$0.00	\$353,808.41	331,864.20	\$339,636.65	\$578,604.57	\$538,109.66	\$933,758.36	\$700,614.99	\$975,567.56	\$4,751,964.40
Grants	\$0.00		4,510,783.43	\$2,222,402.04	\$4,129,943.45	\$2,082,205.89	\$3,527,184.97	\$6,648,586.14	4,002,904.66	\$27,124,010.58
Restoration Planning & Assess								\$100,267.50	25,105.68	\$318,674.78
Restoration Supplemental								\$29,098.81	2,595.40	\$31,694.21
3.2 Wetland & Riparian		\$49,653.00	41,000.00	\$81,800.00	\$141,892.50	\$80,000.00	\$0.00	\$90,907.97	68,058.48	\$553,311.95
Total Expenses	\$0.00	\$403,461.41	\$4,883,647.63	\$2,643,838.69	\$4,850,440.52	\$2,700,315.55	\$4,654,244.93	\$7,569,475.41	\$5,074,231.78	\$32,779,655.92
Difference (REV - EXP)	\$3,070.63	\$7,704,253.72	\$4,415,465.48	\$6,870,405.42	\$4,660,071.42	\$7,342,276.56	\$5,310,201.05	\$1,193,710.81	\$4,330,878.70	\$41,830,333.79
FYE Market Adjustment										
Adjustment										

Security Name	Maturity	Book Value	Market Value
Enco Offshore Co	12/01/15	\$2,833,447	\$2,924,118
JP Morgan Chase Loan Trust	7/12/35	\$3,057,550	\$2,961,776
Trust Fund Bond Pool		\$140,497,371	\$139,832,192
United States Treasury Notes	2/15/09	\$2,988,935	\$2,979,609
United States Treasury Notes	3/31/08	\$2,994,968	\$2,991,094
Short Term Investment Pool		\$8,015,564	\$8,015,564
Total		\$160,387,835	\$159,704,353

Note: This table does not include SBC Reserve Fund or Milltown Restoration Fund

Attachment 2

UCFRB Restoration Fund Status

4th Quarter FYE2007

1999 Partial Settlement

\$118 million in NRD on or before July 18, 1999,
plus interest from April 6, 1998
 \$118 Million – Corpus

Restoration Fund (RF)

\$108 M (RF Corpus)
+ 11.8 M interest (4/98-7/99)
 \$119.8 M Deposit in 7/99
 + 74.6 M interest (7/99 to 4/07)
- 32.9 M expended (7/99 to 4/07)
 \$161.5 M 4th quarter FYE07 Balance
 (Book Value)

SBC Reserve Fund

\$ 10 M (SBC Corpus)

 \$ 10.0 M Deposit in 7/99
 + 7.1 M interest (7/99 to 4/07)
- 0 expended (7/99 to 4/07)
 \$ 17.1 M 4th quarter FYE07 Balance
 (Book Value)

Combined 4th Quarter FYE07 Fund Balance (Book Value) – \$178.6 Million
 Note: An additional \$21.4 million in UCFRB Restoration funds has been approved for expenditure, but not spent yet. \$14.5 million remains to be spent for approved grant projects and \$6.9 million remains to be spent for the Milltown restoration project.

(over)

Milltown North Western Settlement – \$3.9 Million

\$2,500,000	initial deposit in 4/06
+	164,516 interest (4/06 to 6/07)
-	<u>0 expenses (4/06 to 6/07)</u>

\$2,664,516 4th Quarter FYE07 Fund Balance